

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 16.11.2015

CORAM

THE HONOURABLE MR. JUSTICE R.SUBBIAH

Crl.O.P.No.25998 of 2015

Saint J.Rajesh Kumar

... Petitioner

Vs

1. The Commissioner of Police,
Vepery, Chennai.
2. The Inspector of Police,
E-3 Teynampet Police Station,
Chennai - 18.
3. St.Thomas Lutheran Church,
21, Schemes Road, Teynampet,
Chennai - 600 018,
rep by its Secretary.

... Respondents

(R3 impleaded vide order dated 16.11.2015 made in M.P.No.1 of 2015 in Crl.O.P.No.25998 of 2015)

Criminal Original Petition filed under Section 482 Cr.P.C. seeking a direction to the 2nd respondent to give police protection to the petitioner to function as Treasurer in the Saint Thomas Lutheran Church, Schemes Road, Teynampet, Chennai - 600 018 as per the petitioner's complaint dated 13.10.2015.

For Petitioner : Mr.T.Sezhian

For Respondents : Mr.C.Emalias,
Additional Public Prosecutor
(R1 & R2)
Mr.S.Veeraraghavan (R3)

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O R D E R

The present criminal original petition has been filed seeking a direction to the 2nd respondent to give police protection to the petitioner to function as Treasurer in the Saint Thomas Lutheran Church, Schemes Road, Teynampet, Chennai - 600 018 as per the petitioner's complaint dated 13.10.2015.

2. In the petition, it has been stated that the petitioner was elected as a Treasurer of the Saint Thomas Lutheran Church in September 2013. The said election was duly approved by India Evangelical Lutheran Church (IELC), Ambur, Synod. He is in-charge of all the matters relating to the monetary transaction of the Church, including maintaining accounts, keeping custody of the documents relating to the Church funds, bank related documents including cheque books, pass books, fixed deposit and receipt etc. The petitioner was originally elected as Treasurer in May 2010 to continue till September 2013. The previous Treasurer did not hand over all the documents to him, stating that he had given the said document to the Pastor. As the Pastor, Rev. J.Mohan did not handover the documents and threatened the petitioner, he has filed O.S.No.5778 of 2012 before the XII Assistant City Civil Court, Chennai, seeking mandatory injunction to direct Pastor Rev.J. Mohan to handover the documents and for injunction restraining him from interfering with the petitioner performing the duties of the Treasurer. The suit is still pending. While so, in the year 2013, the petitioner was elected unopposed for further period of 3 years. As Treasurer, the petitioner has to collect the amounts, count the money and deposit the same in the account immediately. The accounts are read out to the worshippers every week during service. On 27.10.2013, the Pastor Rev.J.Mohan forcibly grabbed the Sunday collection from the petitioner. Since the petitioner has given a complaint, he returned the amount. From 17.11.2013, Rev.J.Mohan has been grabbing the money from the public and it has not been deposited into the bank. Therefore, the petitioner filed another suit in O.S.No.1801 of 2014 for suitable relief and an interim injunction was granted on 03.04.2014 in I.A.No.5320 of 2014. But the said Rev.J.Mohand did not bother to obey the order and has been illegally collecting the weekly donations from the public and he is not allowing the petitioner to enter the church premises. Now the Secretary of the Church and Rev.J.Mohan are issuing pamphlets for conducting Harvest Festival and therefore, the petitioner is in urgent need of police protection to

safeguard the public money. Therefore, the petitioner has given a complaint on 13.10.2015 seeking police protection. But, till date no action was taken. Hence, the petitioner has filed the present criminal original petition.

3. One Pichamuthu has filed M.P.No.1 of 2015, claiming that he is the Secretary of St.Thomal Lutheran Church, seeking to implead him as the 3rd respondent. In the petition, he has stated that the petitioner in CrI.O.P.No.25998 of 2015 does not have any locus standi to file a case in the capacity of Treasurer, because the petitioner in CrI.O.P.No.25998 of 2015 was already terminated from the post of Treasurer, because of his immoral activities and misappropriation of church funds. Thus, he opposed to grant police protection.

4. I have heard the learned counsel for the petitioner, the learned Additional Public Prosecutor appearing for the respondents and the learned counsel for the 3rd respondent.

5. Though very many contentions have been made in the affidavit, this Court is not going to deal with the disputed question of fact, because this Court is not conducting any rowing enquiry with regard to the claim made by the petitioner as well as the 3rd respondent. The only question that has to be decided is that as to whether this Court has to give a direction to the 2nd respondent police to give police protection to the petitioner or not?

6. In my considered opinion, when the 3rd respondent is disputing the claim of the petitioner stating that the petitioner is not the Treasurer of the Church, this Court cannot give any positive direction to the second respondent police to give police protection to the petitioner. Therefore, I am not inclined to give a direction to the 2nd respondent police to give police protection to the petitioner.

Accordingly, this petition is dismissed. However, the petitioner is at liberty to work out his remedy before the civil Court.

Sd/-

Assistant Registrar(CS VI)

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Sub Assistant Registrar

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To

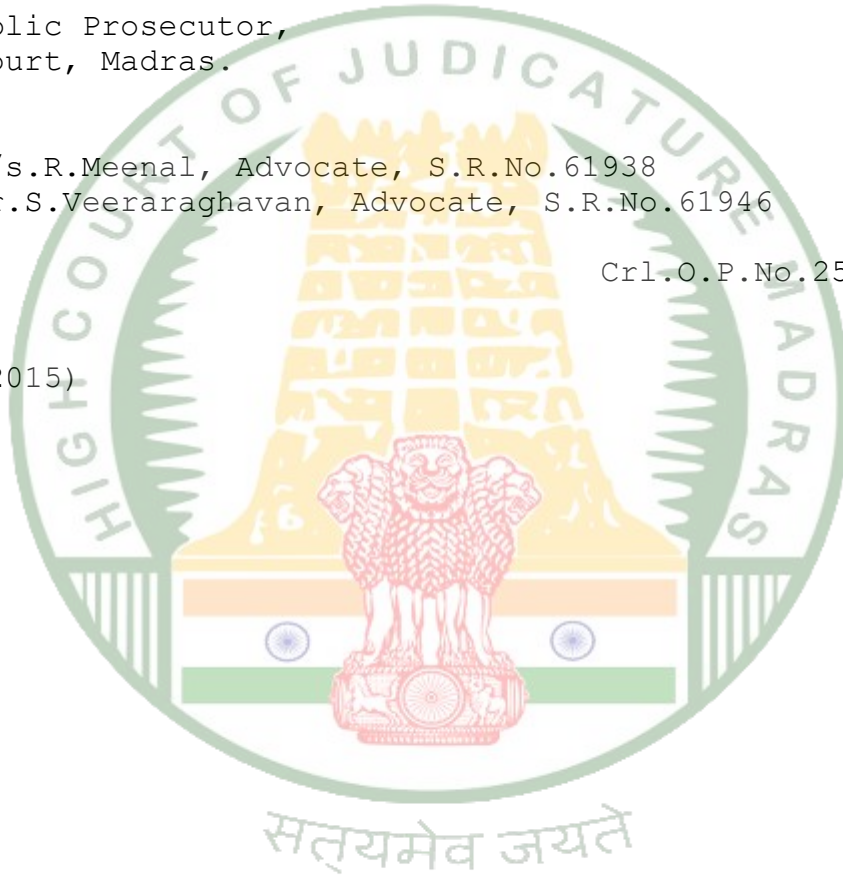
1. The Commissioner of Police,
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3. The Public Prosecutor,
High Court, Madras.

+1cc to M/s.R.Meenal, Advocate, S.R.No.61938

+1cc to Mr.S.Veeraraghavan, Advocate, S.R.No.61946

Crl.O.P.No.25998 of 2015

RSK(CO)
CA(09/12/2015)



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